

BEFORE THE
JOSEPHINE COUNTY COMMITTEE FOR CITIZEN INVOLVEMENT (CIC)

Hal Anthony, Member, Hugo Land Use Committee)	
Wayne McKy, Member, Hugo Land Use Committee)	March 5, 2007
Holger Sommer, Member, Hugo Land Use Committee)	
Mike Walker, Member, Hugo Land Use Committee)	
)	

REQUEST TO CIC

Request: Research and make recommendations to the Josephine County Board of Commissioners (BCC) on establishing procedures for how documents must be submitted into the record “during the course” of local land use proceedings. OAR 661-010-0025.

OAR 661-010-0025(1)(b) provides:

“(b) All **written testimony** and all exhibits, maps, documents or other written materials specifically **incorporated into the record or placed before, and not rejected by, the final decision maker**, during the course of the proceedings before the **final decision maker**.” [Emphasis added].

The Josephine County Citizen Involvement Program, Josephine County Ordinance No. 93-13, in relevant part, provides the following about the Josephine County CIC:

“B. *CITIZEN INVOLVEMENT COMMITTEE (CIC)*

3. *Duties: CIC duties are as follows:*
 - a. *To review the citizen involvement program on a regular basis and to recommend any changes to the Board of County Commissioners;*
 - b. *To evaluate the success of the program;*
 - c. *The CIC shall be the focus of citizen participation in Josephine County;*
 - d. *The CIC shall certify that an election which has been held by a CAC followed the adopted By-Laws for Josephine County and shall certify that the CAC is a legally established CAC.”*

We request the CIC to review the attached paper entitled, “*For the Record or Not*” in the spirit of the CIC’s duties to 1. to review the citizen involvement program (CIP) on a regular basis and to recommend any changes to the Josephine County Board of County Commissioners (BCC), 2. to evaluate the success of the CIP, and 3. to be the focus of citizen participation in Josephine County.

The “*For the Record or Not*” paper was jointly authored by The Hugo Land Use Committee, Hugo Neighborhood Association & Historical Society, the Goal One Coalition, and the Rogue Advocates. These organizations are nonprofit organizations whose missions include providing assistance and support to citizens of the Rogue Valley in matters affecting their communities. They developed the paper, “*For the Record or Not*,” to address the pros and cons of the timing for submitting written testimony during land use proceedings at the request of, and on behalf of, their membership residing in the Rogue Valley.

The need is to have an understandable county procedure for submitting written testimony into the record of land use proceedings. This is because as used in OAR 661-010-0025(1)(b), the term “placed before” is a term of art and does not merely describe the act of setting documents in front of the decision maker. *Witham Parts and Equipment Co. v. ODOT*, 42 Or LUBA 589 (2002).

We request the CIC research and make recommendations to the BCC on establishing procedures for how documents must be submitted into the record “during the course” of local land use proceedings. OAR 661-010-0025. We recommend that written procedures be developed by the BCC which address, at a minimum, the following topics.

- . **final decision maker**
- . during the **course** of the proceedings before the final decision maker
- . **proceedings** before the final decision maker
- . **written testimony and all exhibits, maps, documents or other written materials**
- . written testimony **incorporated into the record** by the final decision maker
- . written testimony **placed before** the final decision maker
- . written testimony **not rejected** by the final decision maker
- . identification of **designated local government representative** for the final decision maker as the person to whom written testimony should be directed for the purpose of placing before the final decision maker comments over the time period defined as the course of the proceedings
- . **content of notice requirements prior to a decision** for identifying the name, role, and responsibility of a local government representative to accept testimony for the final decision maker, and a general explanation of the requirements for submission of testimony
- . **requirements for submission of testimony to the local government representative** for purposes of accepting written testimony into the record during the course of the proceedings at times other than during public hearings

- . **requirements for submission of testimony to the hearing officer** for purposes of accepting written testimony into the record during the course of the proceedings at times other than during public hearings
- . **requirements for submission of testimony to the RPC** for purposes of accepting written testimony into the record during the course of the proceedings at times other than during public hearings
- . **requirements for submission of testimony to the BCC** for purposes of accepting written testimony into the record during the course of the proceedings at times other than during public hearings
- . **requirements for submission of testimony to the hearing officer** for purposes of accepting written testimony into the record during public hearings
- . **requirements for submission of testimony to the RPC** for purposes of accepting written testimony into the record during public hearings
- . **requirements for submission of testimony to the BCC** for purposes of accepting written testimony into the record during public hearings
- . **the specifics procedures for how a particular document may be incorporated into the record** by the hearing body
- . **the specifics procedures for how a particular document may be accepted into the record** by the hearing body
- . **the specifics procedures for how a particular document may be rejected from the record** by the hearing body
- . local government procedures that address whether **written testimony for the record requires a request** that testimony be placed before the final decision maker
- . local government **procedures that require the record of a lower level decision maker's proceedings be placed before the final decision maker**
- . **number of copies of written testimony** required to be submitted to the local government representative, hearing officer, RPC, and/or BCC to be included into the record
- . **number of copies of written testimony** required to be submitted to the local government representative, hearing officer, RPC, and/or BCC to be included into the record and considered in detail
- . **role** of the local government representative, hearing officer, RPC, and/or BCC after written testimony accepted into the record (i.e., responsibility to read and consider written testimony)
- . **how the written record is prepared** for local land use proceedings and where it may be reviewed.

Hugo Land Use Committee Members

The need is to have an understandable county procedure for submitting written testimony into the record of land use proceedings.

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